

From: Scott Ricketts
To: Microsoft ATR
Date: 1/23/02 11:25am
Subject: Microsoft Settlement

To Whom It May Concern:

My name is Scott Ricketts, I am a 13-year veteran of the United States Air Force, now a civilian, and I would like to comment on the ongoing proceedings in the United States vs. Microsoft remedy phase now underway.

I would like to begin, by saying that I have a Bachelor of Science degree in Information Systems Technology, I have been a computer user since 1982, and a personal computer enthusiast since 1992. I am currently employed as computer professional, and the majority of my work involves using and designing programs for use on Microsoft operating systems and development platforms.

I would first like to comment on, what I believe, the good that Microsoft has done for the personal computing industry. Microsoft has successfully created standard Application Programming Interfaces that have allows software and hardware makers alike to create devices and programs that can easily and successfully interface with devices created by other programmers and designers without ever seeing or touching the other persons work. I feel this standardization is what helped the personal computing industry become the giant economic and social force that it is today.

However, in creating these standards, I believe that Microsoft has overreached the bounds of common decency and abused the defacto standards they helped create. Previously, the United States settled with Microsoft in regards to their practice of Original Equipment Manufacturer licensing fees and contracts and the bundling of Internet browsing software designed to increase the market share and adoption of Microsoft proprietary technology. This was to prevent what the United States government saw as Microsofts abusing of its monopoly among personal computer operating systems and productivity software.

The years since that settlement have seen Microsoft

grow in its demands towards Original Equipment Manufacturer and the recent exclusion of non-Microsoft Internet browsers from Microsoft websites. In my opinion, this does not reflect the behavior of a company that understands its duty to not abuse its position as a monopoly.

In reading both proposed settlements from the Department of Justice and the remaining states, I feel that while neither goes to the lengths that I would recommend, the states proposal goes much farther in the right direction in reaching a state whereby Microsofts position cannot be leveraged against any potential competitors again.

The Department of Justice settlement has, to my mind, a major flaw that prevents it from being considered as an acceptable remedy. Microsoft has shown, by its conduct regarding the previous settlement, and its behavior that was upheld by the appeals court which branded Microsoft an illegal monopoly, that it will, whenever possible, circumvent rules, laws, and any barriers that prevent it from controlling its areas of interest. There are no provisions for actually punishing past or future infractions of the law by Microsoft. If Microsoft continues to abuse its position as an illegal monopoly, the Justice Departments remedy merely lengthens the term of surveillance. The states settlement, however, provides a very exacting and appropriate punishment: disclosure of computer source code for the offending program. This would be an extremely painful measure for Microsoft, as they view their copyrighted and closely guarded computer source code as their crown jewels: very simply this is how they generate revenue.

If that revenue stream is blocked, or they are forced to reveal how their programs work, that opens a new area for competition.

Microsoft has shown repeated contempt for legal agreements, hiring armies of legal minds to comb over documents trying to find potential weak areas. In 1996, when Netscape Navigator was the number one Internet browser, Microsoft signed a licensing agreement with a company called Spyglass. In exchange for a small sum of money upfront and a portion of each sale, Microsoft would receive the computer source code for Spyglass Internet browser. This would allow Microsoft to quickly get a functional and

full-featured browser into the marketplace without a lengthy development delay. However, the anticipated revenue stream Spyglass expected never arrived. Why? Because Microsoft chose not to sell their Internet browser, they gave it away for free. This allowed them to not pay further royalties to Spyglass, achieve quick market penetration for their product, which they could then use to leverage their proprietary technologies (such as ActiveX) into defacto standards.

This deal, I think, creates a very compelling picture of Microsofts corporate character. In an interview regarding past dealings with Utah-based software company Novell, Microsoft CEO Steve Ballmer smugly commented They made a mistake, they trusted us. I am writing this letter in the hopes that my government does not make the same mistake that Novell did. Any settlement must contain explicit, detailed language that leaves no room for ambiguity, and exacting, painful punishment for future and past infractions.

Thank you for time.

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